



BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 97-26
Table of Allotments,	)	RM No. 8968
FM Broadcast Stations	)	
(Detroit, Texas)	)	
To: Chief, Allocations Branch		

**REPLY COMMENTS**

Metro Broadcasters-Texas, Inc. ("Metro"), licensee of Station KHYI(FM), Howe, Texas, by counsel, hereby submits these comments in response to the Counterproposal, filed March 17, 1997, by K95.5, Inc. ("K95.5"), in connection with the Commission's *Notice of Proposed Rule Making*, 12 FCC Rcd 1810 (Chief, Allocations Branch 1997) ("*Notice*"), in the above-captioned proceeding. In support of these reply comments, the following is stated:

I.  
**Introduction**

In response to a petition for rulemaking filed by Great Plains Radiocasting, the Commission issued its *Notice* on January 24, 1997, proposing to allot Channel 294C2 to Detroit, Texas, as that community's first local service. On March 17, 1997, Metro filed its "Comments and Counterproposal" proposing, instead, the allotment of either Channel 238C2, 238C3, or 238A to Detroit in lieu of Channel 294C2, and the substitution of Channel 294C2 for Channel 238C2 at Hugo, Oklahoma. In addition, Metro sought to upgrade Station KHYI(FM), Howe, Texas, from Channel 237C3 to 237C2. On the same date, K95.5 filed a counterproposal seeking the allotment

of Channel 294C2 to Antlers, Oklahoma, as that community's "first local aural transmission service." K95.5 Counterproposal, pp. 1, 3. For the reasons stated herein, the Commission should grant Metro's counterproposal and deny the counterproposal filed by K95.5.

## II.

### There Are Four Alternative Channels Available at Antlers

There is an existing vacant allotment for Channel 284A at Antlers, Oklahoma, which is available on a first-come/first-serve basis. Channel 284A was allotted to Antlers in May 1992, and has lain fallow since that time.<sup>1</sup> Thus, contrary to K95.5's assertions, the allotment of Channel 294C2 to Antlers would not provide the community with its "first local aural transmission service",<sup>2</sup> but, rather, only an additional FM service.

Moreover, as demonstrated in the attached engineering exhibit, there are three additional channels available for allotment to Antlers that would not conflict with either Metro's counterproposal or the proposal set forth in the *Notice*.<sup>3</sup> First, Channel 222A can be allotted to Antlers in lieu of Channel 294C2, and would not conflict with the proposals to allot a Class C2 facility at Detroit. *See* Engineering Statement, p. 2. There is a large open area approximately 1 kilometer northwest of the community reference coordinates for Antlers that meets the minimum separation requirements with respect to all known licenses, construction permits, open allotments,

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<sup>1</sup> *See* Report and Order in MM Docket No. 91-232, *Wilburton and Antlers, Oklahoma*, 7 FCC Rcd 1968 (Chief, Allocations Branch 1992).

<sup>2</sup> *See* K95.5 Counterproposal, pp. 1, 3.

<sup>3</sup> As stated above, the *Notice* proposed to allot Channel 294C2 to Detroit. Metro's counterproposal proposed the allotment of alternative Channels 238C2, 238C3, or 238A at Detroit. For purposes of simplicity and ease of reference, these proposals collectively will be referred herein as "the proposals to allot a Class C2 facility at Detroit."

pending applications, and pending rulemaking proceedings. *Id.* at 1. The minor site restriction to the northwest of Antlers will enable the proposed station to provide a city-grade signal to the community of license, and is substantially less than the 17.8 kilometer site restriction proposed by K95.5. *See* K95.5 Counterproposal, p. 1, n.1.

Alternatively, Channel 262A can be allotted to Antlers in lieu of Channel 294C2, and it also would not conflict with the proposals to allot a Class C2 facility at Detroit. *See* Engineering Statement, p. 2. There is a large area available approximately 5 kilometers northeast of the Antlers' community reference coordinates that meets the Commission's minimum separation requirements. *Id.* at 1. The 5 kilometer site restriction would permit the proposed station to provide a city-grade signal to Antlers, and is substantially less than the site restriction proposed in K95.5's counterproposal.

Metro respectfully submits that the allotment of a Class C2 facility, as proposed by K95.5, is not necessary to serve a community the size of Antlers, which has a population of only 2,524 persons. *See* Engineering Statement, p. 1. Instead, Metro believes the vacant Channel 284A allotment at Antlers constitutes a satisfactory means of providing a new broadcast service to that community. Nevertheless, in the event the Commission should determine that the additional allotment of a Class C2 facility to Antlers would serve the public interest, the attached engineering exhibit demonstrates that Channel 222C2 may be allotted to Antlers in lieu of Channel 294C2 without conflicting with the proposals to allot a Class C2 facility at Detroit. There is an open area approximately 8 kilometers northeast of Antlers in which a transmitter may be located that would meet the minimum separation requirements. *Id.* at 1. This 8 kilometer site restriction would enable the proposed station to provide city-grade coverage to the community of Antlers, and is substantially

less than the 17.8 kilometer restriction contained in K95.5's counterproposal. Therefore, despite K95.5's proposal to allot Channel 294C2 to Antlers, rather than Detroit, not only is there an existing vacant allotment at Antlers available for application on a first-come/first-serve basis, but there also are three alternative channels available that would not conflict with the proposals to allot a Class C2 facility at Detroit.

### III.

#### K95.5's Counterproposal Constitutes an Anti-Competitive Attempt to Preclude Additional Competition in Station KITX's Radio Market

The fact the vacant allotment for Channel 284A at Antlers, Oklahoma, has lain fallow for nearly five years indicates that there may not be a sufficient advertising base, in a community with a declining population of approximately only 2,524 people,<sup>4</sup> to support a new radio station. Nevertheless, if the community of Antlers is in need of its own FM broadcast station, as K95.5 contends, it undoubtedly would have been much easier for K95.5 to file a construction permit application for the vacant Channel 284A allotment and receive a relatively quick grant of its first-come/first-serve application, rather than go through the process of seeking the allotment of an additional channel to Antlers that conflicts with the proposals to allot a Class C2 facility at Detroit. The fact that K95.5 has foregone the opportunity of filing a first-come/first-serve application for nearly five years and only now seeks to bring a new service to the community of Antlers indicates that K95.5 may have an ulterior motive for seeking the allotment of an additional channel at Antlers. Indeed, although K95.5's counterproposal does not make any explicit reference to the counterproponent's interest in this proceeding, K95.5 is the licensee of nearby Station KITX(FM),

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<sup>4</sup> According to U.S. Census data, the population of Antlers declined 15.6% between 1980 and 1990. See Engineering Statement, p. 1.

Hugo, Oklahoma, which currently operates with maximum facilities on Channel 238C2.<sup>5</sup> As demonstrated in the attached engineering exhibit, there would be a substantial overlap of the city-grade contours of Station KITX and a Class C2 facility at Detroit operating with maximum facilities. See Engineering Statement, p. 2 and Figure 5 thereto.

In light of the facts that (i) there is an existing vacant allotment for Channel 284A at Antlers which has lain fallow for nearly five years; (ii) there are at least three alternative channels available for allotment to Antlers that comply with the minimum separation requirements, none of which would preclude the allotment of a Class C2 facility at Detroit; and (iii) there would be a substantial overlap of the city-grade contours of Station KITX and a Class C2 facility operating at Detroit with maximum facilities; the record in this proceeding strongly suggests that K95.5's counterproposal was filed for the anti-competitive purpose of attempting to preclude additional competition in Station KITX's radio market which would result from a new Class C2 facility at Detroit. Therefore, for this additional reason, K95.5's proposal to allot Channel 294C2 to Antlers, Oklahoma, should be rejected.<sup>6</sup>

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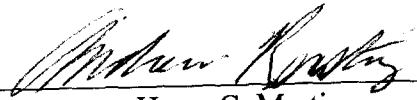
<sup>5</sup> Hugo is located approximately 30 miles northwest of Detroit, Texas. See *Rand McNally Road Atlas*, p. 94 (1997).

<sup>6</sup> As Metro noted in its counterproposal, its proposal to allot alternative Channels 238C2, 238C3, or 238A at Detroit would require Station KITX to move from Channel 238C2 to 294C2. Thus, because it is likely that K95.5 will file reply comments in this proceeding challenging Metro's counterproposal, Metro urges the Commission to keep the anti-competitive nature of K95.5's counterproposal in mind when considering K95.5's reply comments.

WHEREFORE, in light of the foregoing, Metro Broadcasters-Texas, Inc. respectfully requests the Commission to GRANT its counterproposal, AMEND the FM Table of Allotments in accordance therewith, and MODIFY the license of Station KHYI, Howe, Texas, to specify operation on Channel 237C2 in lieu of Channel 237C3.

Respectfully submitted,

METRO BROADCASTERS-TEXAS, INC.

By:   
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April 1, 1997

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**SEARCH FOR ALTERNATE  
FM BROADCAST CHANNELS**

**for  
Antlers, OK**

**March 1997**

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**E. Harold Munn, Jr. & Associates, Inc.**  
Broadcast Engineering Consultants  
Coldwater, MI 49036

## ENGINEERING STATEMENT

The firm of E. Harold Munn, Jr. & Associates, Inc., has been retained to prepare this study of alternate FM broadcast channels which might be available for service at the community of Antlers, OK. In particular, the study addresses the availability of Class A and Class C2 commercial channels.

The community of Antlers, OK, is located in the southeastern corner of Oklahoma in Pushmataha County. The 1990 U.S. Census Data reported a population of 2,524 having declined from a 1980 population of 2,989. The 1990 population for Pushmataha County was 10,997 which represents a decline from the 1980 level of 11,773.

A search was made for existing allocations for the community of Antlers, using a March 28, 1997, secondary copy of the FCC database of FM broadcast stations. The search revealed Channel 284A, 104.7 MHz, to be assigned to Antlers and available on a "First Come/First Served" basis. A printout of this record is included with this statement as Figure 1.

For the purposes of this study, the search for additional channels was made using the community reference coordinates of 34° 13' 52" NL / 95° 37' 12" WL. These are the coordinates listed for Antlers, OK, in the National Cartographic Information Center microfiche database (November 1982). The following additional channels were found:

1. **Channel 222A - 92.3 MHz** Figure 2 shows the allocation for this channel. Inspection of the tabulation and graphical presentation will show a large, potential open area for transmitter locations. The allotment is bounded by the spacing limitation to an application to use Channel 224C2 at Blossom, TX, and the requirement to provide "city grade" coverage to the city of license. The coordinates used for the study are short-spaced to the Blossom application by a distance of 0.91 km. Thus, for allocation purposes, an reference point would need to be established approximately 1 km northwest of Antlers.
2. **Channel 262A - 100.3 MHz** Figure 3 shows the allocation study for this channel. Although the potential open area for this frequency is not as great as that shown for the previous channel, there is still a large area available which is bounded by the required spacing to the KRBV Construction Permit at Dallas, TX, and the requirement to cover the city of license with the 70 dBu (3.16 mV/m) contour. The study coordinates are short-spaced to the KRBV Construction Permit by 4.77 km. Thus, for allocation purposes, an reference point would need to be established approximately 5 km northeast of Antlers.
3. **Channel 222C2 - 92.3 MHz** Figure 4 shows the allocation study for the use of this frequency. A reference point would need to be established approximately 8 km west of the town of Antlers since the study coordinates are short-spaced to both the application to use Channel 221C2 at DeQueen, AR (7.74 km), and the application to use Channel 224C2 at Blossom, TX (3.91 km). The potential open area is bounded by the required city coverage and the following spacing requirements: the application to use Channel 221C2 at DeQueen,

AR; the application to use Channel 224C2 at Blossom, TX; KEMM operating on Channel 221A at Commerce, TX; KSSU operating on Channel 220A at Durant, TX; and an application to use Channel 220A at McAlester, OK.

A rulemaking procedure would be required to amend the Table of Allotments (§73.202) before any of the alternative channels could be used at Antlers, OK. However, it appears an application could be made at any time for the Channel 284A allotment. None of the alternate channels suggested in this study would conflict with any of the following proposals which have been given consideration in this proceeding: a) the proposed allotment of Channel 294C2 to Detroit, TX; b) the allotment of Channel 238 to Detroit, TX, as a Class C2, Class C3, or Class A facility; or c) the proposed upgrade of Channel 237 at Howe, TX, from a Class C3 to a Class C2 facility.

In addition to the search for alternate channels at Antlers, this firm was also requested to evaluate the potential for city grade contour (70 dBu or 3.16 mV/m) overlap between the existing facilities of KITX at Hugo, OK, and a full Class C2 FM facility placed at the reference coordinates set forth in the "Notice of Proposed Rule Making," DA 97-114, for Channel 294C2 at Detroit, TX, namely 33° 49' 16" NL / 95° 24' 16" WL. Figure 5 shows an INTERDLG® map of the existing KITX city grade contour. This contour was drawn using the data listed for KITX in the March 28, 1997, release of the secondary copy of the FCC database of FM broadcast stations. The plotted contour makes use of 360 terrain radials. Also shown on this map is the like contour for a Class C2 facility on Channel 294 at the above referenced coordinates for Detroit, TX, using an ERP of 50 kW and an HAAT of 150 meters.

### **CERTIFICATION**

I hereby certify, subject to penalties for perjury, that the contents of this Engineering Statement are true and accurate to the best of my knowledge and belief.

March 31, 1997

**E. Harold Munn, Jr. & Associates, Inc.**

P.O. Box 220  
Coldwater, MI 49036

By Donald J. Baad  
Donald J. Baad, Project Engineer

(517) 278-7339

FIGURE 1

I.D. # 253      STAFILE V:5.0 (C) 1987-94      03-28-97  
C:\searchfm\OKFM.FM

0.) Call	ALOPEN	11.) Expire date	
1.) City	Antlers	12.) Service	A
2.) State	OK	13.) Country	U
3.) Ch. #	284,104.7 MHz	14.) Border	
4.) Class	A	15.) Beam tilt	N
5.) Lat.	34 13 54	16.) Pattern	
6.) Lng.	95 36 6	17.) Polarization	
7.) Power	0.000	18.) Action	930210
8.) HAAT m	0	19.) File	
9.) Type	AL	20.) COR AMSL	0
10.) Licensee	91-232	21.) License Filed	921113

Command... ?

First Come/First Served Allotment  
Effective 5-4-92

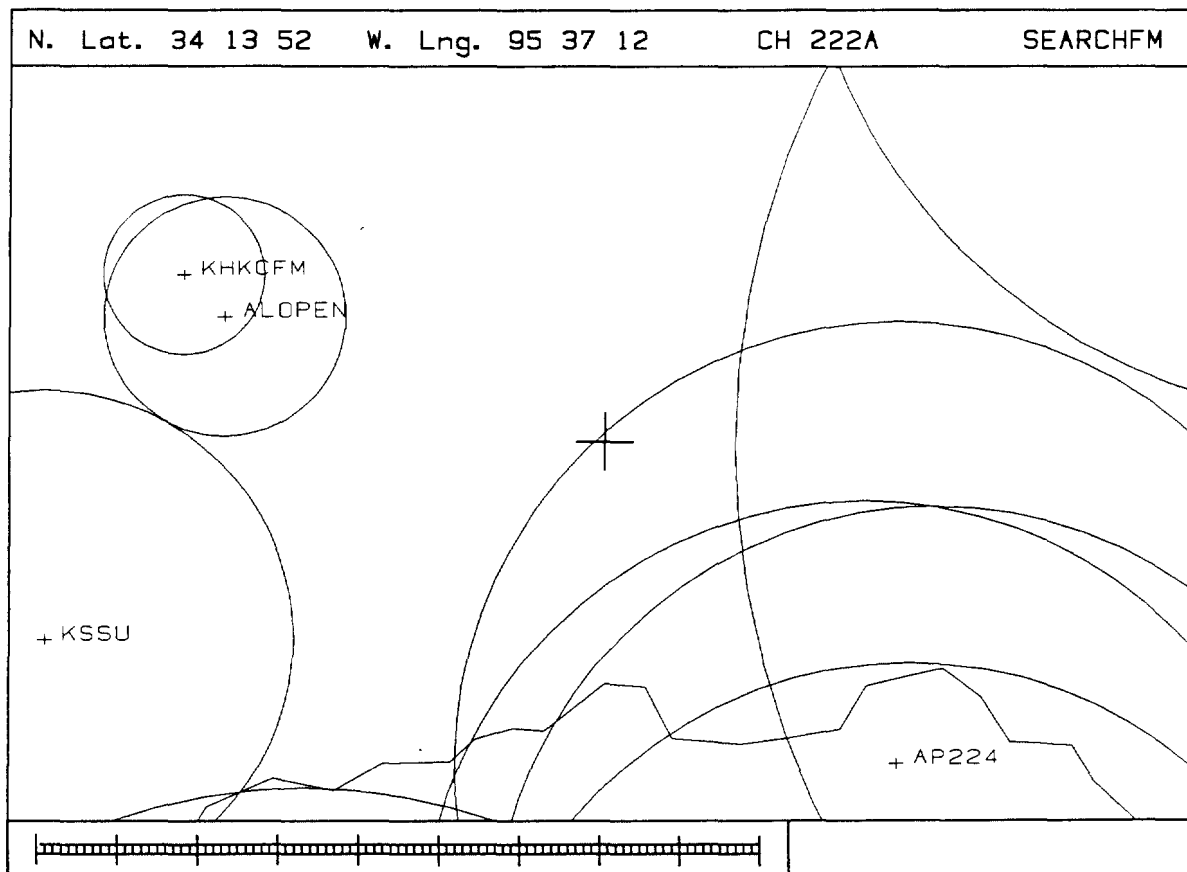


FIGURE 2  
CHANNEL 222A ALLOCATION STUDY - ANTLEERS, OK

Call	CH#	Location		D-KM	Azi	FCC	Margin
AP224	224C2	Blossom	TX	54.09	137.7	55.0	-0.91
ALOPEN	224C2	Blossom	TX	70.27	152.6	55.0	15.27
AD221	221C2	De Queen	AR	122.26	90.1	106.0	16.26
AP224	224C2	Blossom	TX	75.29	146.9	55.0	20.29
ALOPEN	276C2	Atoka	OK	49.89	288.4	15.0	34.89
AP224	224C2	Blossom	TX	90.88	155.3	55.0	35.88
AP224	224C2	Blossom	TX	90.88	155.3	55.0	35.88
KSSU	220A	Durant	OK	73.91	250.6	31.0	42.91
KHKCFM	276A	Atoka	OK	56.43	291.8	10.0	46.43
AP220	220A	McAlester	OK	78.24	354.7	31.0	47.24
KEMM	221A	Commerce	TX	120.87	198.0	72.0	48.87
KPRVFM	223A	Heavener	OK	121.14	51.9	72.0	49.14
KPRVFM	223A	Heavener	OK	121.14	51.9	72.0	49.14

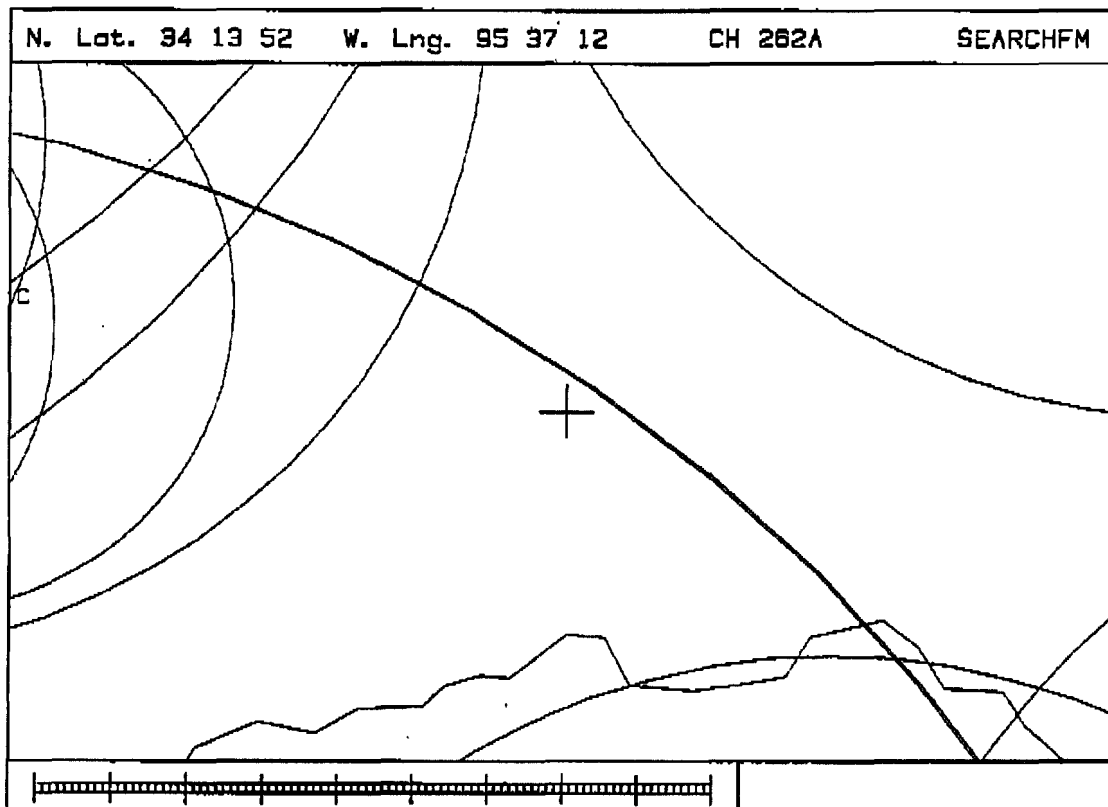


FIGURE 3  
CHANNEL 262A ALLOCATION STUDY - ANTLERS, OK

Call	CH#	Location		D-KM	Azi	FCC	Margin
KRBV. C	262C	Dallas	TX	221.23	214.6	226.0	-4.77
KRBV	262C	Dallas	TX	221.47	214.7	226.0	-4.53
KYKC	261C3	Byng	OK	114.42	299.1	89.0	25.42
KTCSEFM	260C	Fort Smith	AR	126.98	42.3	95.0	31.98
KPXI	264C	Mount Pleasant	TX	132.79	164.6	95.0	37.79
KTSH. C	259C3	Tishomingo	OK	87.65	279.7	42.0	45.65
KATTFM	263C	Oklahoma City	OK	214.49	307.4	165.0	49.49
KHJM	262A	Taft	OK	175.40	1.5	115.0	60.40
KATTFM	263C	Oklahoma City	OK	227.45	312.2	165.0	62.45
KTSH. A	259C3	Tishomingo	OK	110.78	276.0	42.0	68.78
KPYN	261C2	Atlanta	TX	178.55	127.0	106.0	72.55
ALOPEN	265C2	Sulphur	OK	128.61	286.2	55.0	74.61

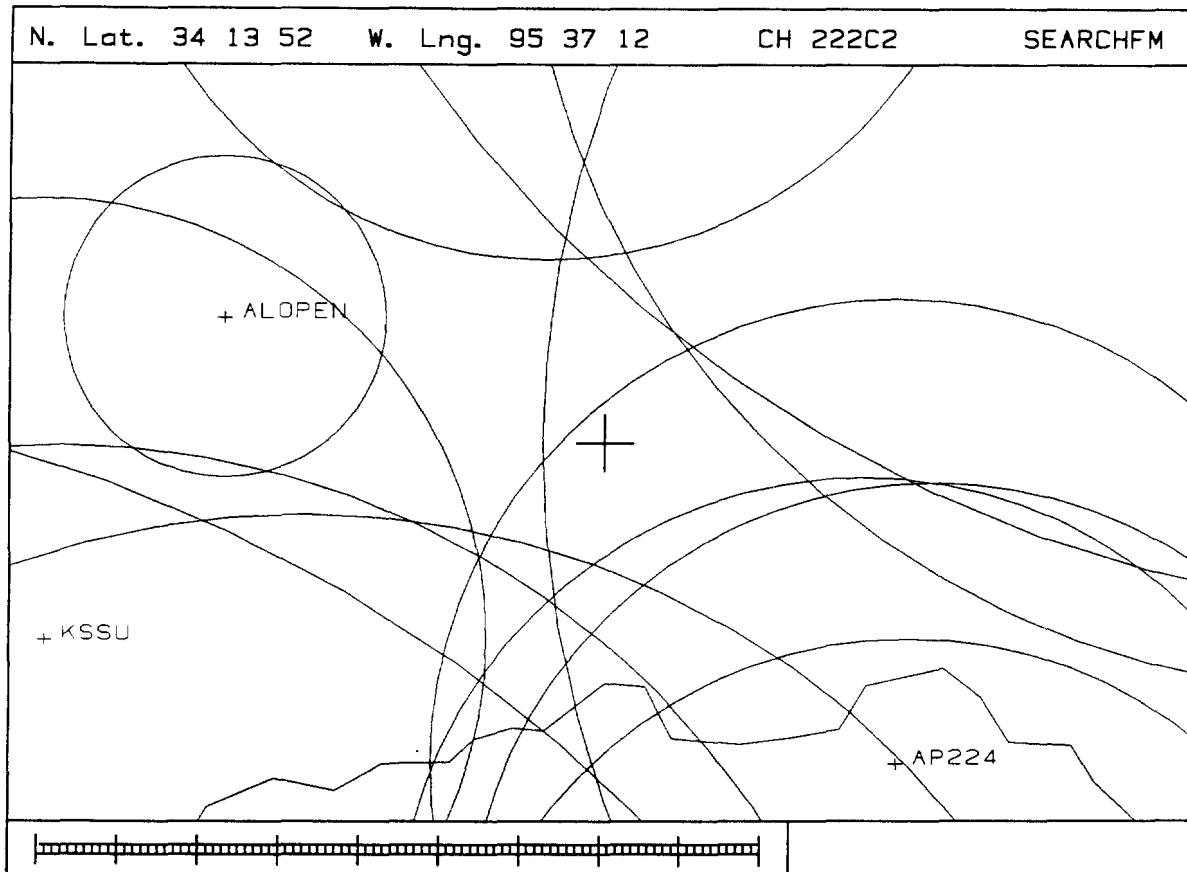
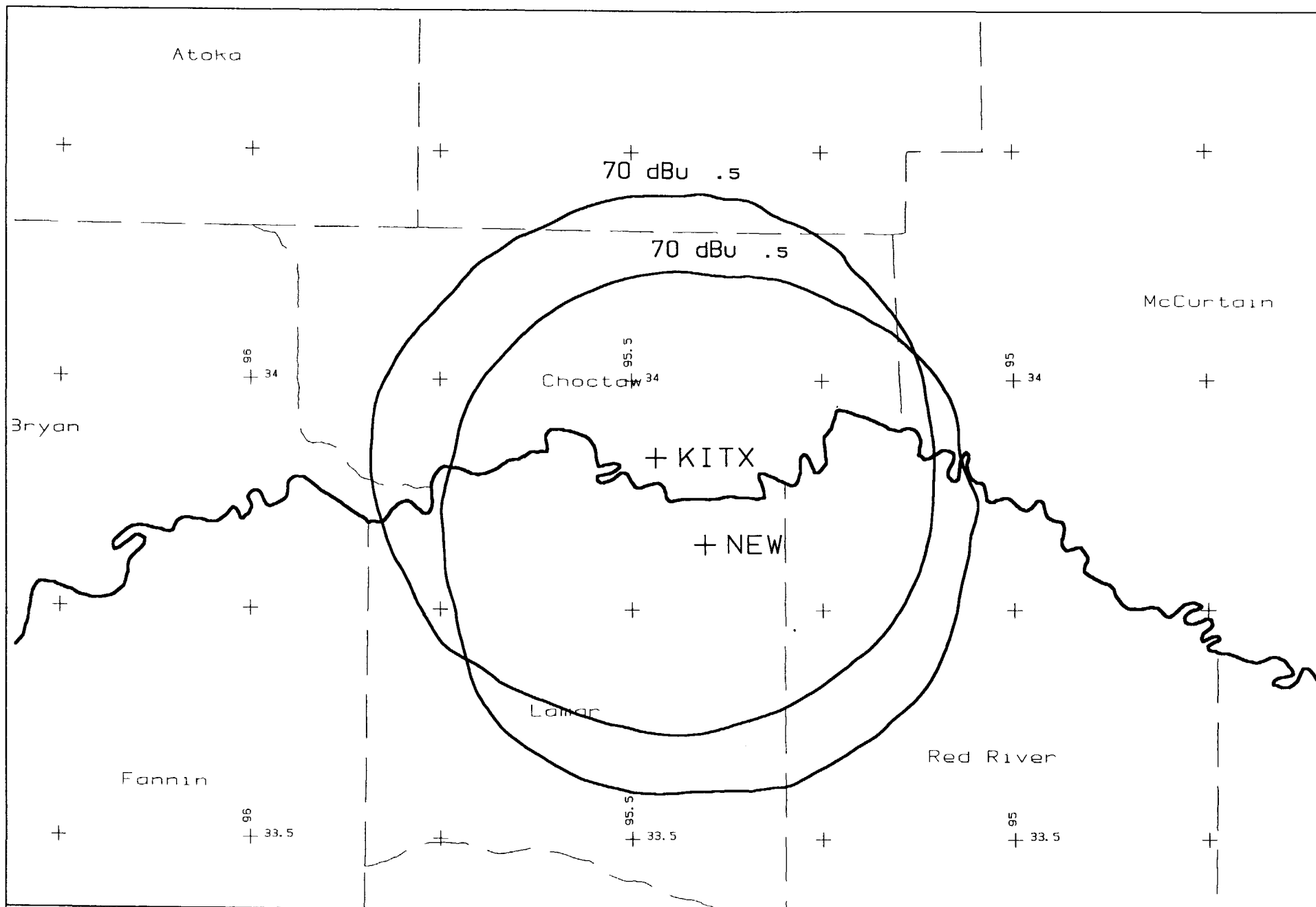


FIGURE 4  
CHANNEL 222C2 ALLOCATION STUDY - ANTLERS, OK

Call	CH#	Location		D-KM	Az1	FCC	Margin
AD221	221C2	De Queen	AR	122.26	90.1	130.0	-7.74
AP224	224C2	Blossom	TX	54.09	137.7	58.0	-3.91
ALOPEN	224C2	Blossom	TX	70.27	152.6	58.0	12.27
KEMM	221A	Commerce	TX	120.87	198.0	106.0	14.87
KPRVFM	223A	Heavener	OK	121.14	51.9	106.0	15.14
KPRVFM	223A	Heavener	OK	121.14	51.9	106.0	15.14
KREU	222A	Roland	OK	182.02	37.6	166.0	16.02
AP224	224C2	Blossom	TX	75.29	146.9	58.0	17.29
KSSU	220A	Durant	OK	73.91	250.6	55.0	18.91
ALOPEN	221A	Farmersville	TX	126.21	212.7	106.0	20.21
AP220	220A	McAlester	OK	78.24	354.7	55.0	23.24
ALOPEN	276C2	Atoka	OK	49.89	288.4	20.0	29.89
AP224	224C2	Blossom	TX	90.88	155.3	58.0	32.88
AP224	224C2	Blossom	TX	90.88	155.3	58.0	32.88
KZPS	223C	Dallas	TX	221.15	214.8	188.0	33.15



Scale in km  
0 10 20 30 40

KITX BLH890828KC 238C2 50kW  
N. Lat. 33 54 56 W. Lng. 95 28 04

FIGURE 5  
MUNN & ASSOC. - 03/97

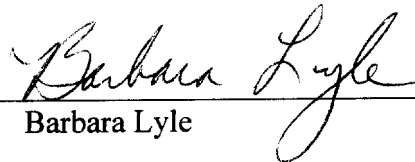
**CERTIFICATE OF SERVICE**

I, Barbara Lyle, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that on this 1st day of April, 1997, copies of the foregoing Reply Comments were hand delivered or mailed first-class, postage prepaid, to the following:

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